

INDIAN LANDS



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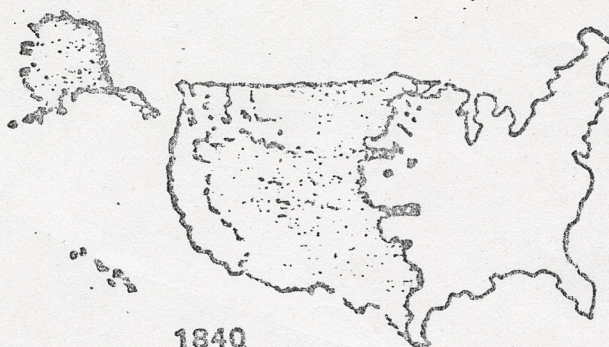
INDIANS
&
THE ENERGY RESEARCH
&
DEVELOPMENT ADMINISTRATION

OCT 1977

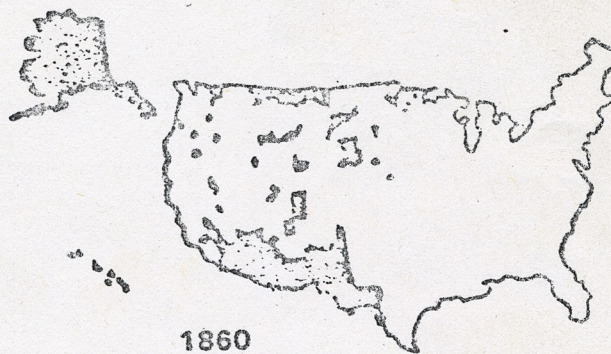
"A look at common interests
and concerns"



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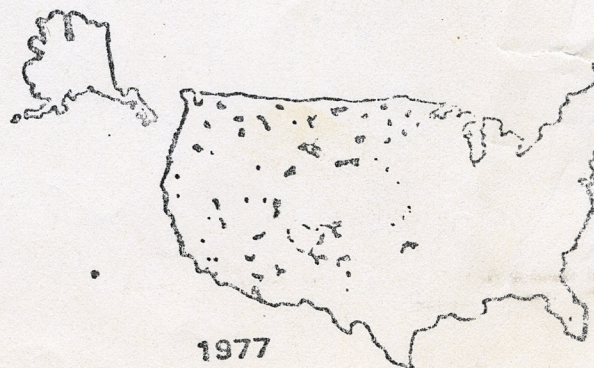
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"After the preparation of this document, The Energy Research and Development Administration was absorbed by the new Department of Energy. Presumably the programs described in Section X will continue to exist."



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I. PURPOSE

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The purpose of this paper is to describe the scope of Indian owned energy resources, their effect on the national energy supply and the relationship that should exist between Indian nations and the Energy Research and Development Administration. There are areas of mutual interest as the tribes strive toward self-sufficiency and the Energy Research and Development Administration strives toward its goals of fulfilling the nation's energy needs and fulfilling its share of the Federal trust responsibility to Indian nations. The trust responsibility includes the duty to see that Indian rights are protected and Indian owned resources are protected and developed in a way that is in the best interests of the beneficiaries of the trust, both culturally and economically.

Further we have designed it to be a tool for the tribes to use in understanding ERDA programs and how they might be used to the benefit of the tribes.

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II. STATEMENT OF PRINCIPLES

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1. Approximately two-hundred Indian nations are the private owners, potential producers, consumers, and governmental entities exercising control over substantial amounts of natural resources in this country. There is no parallel to this circumstance in the American experience. Indian nations can be compared to foreign developing nations. Foreign developing nations are seeking to control their own destinies without colonial domination; so are Indian nations.

2. The Federal government as a whole, through treaties and other law upheld by court decisions, has a trust responsibility to Indian nations and Indian people to protect both their rights and resources in the best interest of the recipients of the trust. In terms of fiduciary trust alone, the federal government has the same responsibility to insure that the assets of the trust are both protected and used to the maximum benefit of the trust recipient as the trust department of a bank has to an individual.

3. There is a growing determination by Indian nations to exercise their powers as governments and to exercise their control of their own destinies, including the control of the development of their own resources, and calling their trustee to account for past performance of the trust responsibility.

4. The Energy Research and Development Administration will become part of the new Department of Energy. As federal entities, both the Department and ERDA have an unquestionable trust responsibility to protect and enhance Indian rights and resources.

5. Both the legislative and executive branches have avowed self-determination by Indian nations as the Federal policy.

III. OVERVIEW OF TRIBES OWNING ENERGY RESOURCES

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It is impossible to say with certainty how much of the nation's energy resources are owned by Indian nations because there are no comprehensive inventories available to the tribes, and we must assume, therefore, to their trustee, the Federal government. It would be inconceivable to assume that the Federal government had acted on behalf of the tribes without information not made available to the trust recipients. It may be difficult for non-Indians to believe that the trustee has acted on behalf of the tribes without comprehensive inventories based on the technology of the day and updated with the state of the art. Nevertheless, it is true. Only with the advent of the energy crisis, and the resultant national emphasis on development of domestic energy, the recognition of the potential of Indian owned energy resources and the organization of the Council of Energy Resource Tribes (an inter-tribal compact of those tribes with known energy resources) were efforts begun to inventory tribally owned resources.

The first recommendation of the Council of Energy Resource Tribes made to the Federal Energy Administration was that those tribes be supplied with the fiscal resources to accomplish comprehensive inventories upon which they might base properly informed development decisions. The tribes made it clear from the beginning that those decisions included the option not to develop if it was not in the best interests of their people either culturally or economically.

Apparently embarrassment by the new Federal Energy Administration's recognition of the problem, and pressure from the tribes caused the Bureau of Indian Affairs to begin its own program to develop the inventories. According to the BIA's schedule, these inventories will be completed in 1995, about fifty years too late since many of the existing leases were made in the early fifties.

The amounts of resources owned by individual tribes have not been included in this report for two reasons: (1) as stated before, comprehensive inventories are not available, and (2) if they were, they would be proprietary information for the tribe's and the trustee's (on behalf of the tribe) use only. As such, they would not be published by Americans for Indian Opportunity even if we had them.

Nevertheless, based on information available to the general public from various Bureau of Indian Affairs, U.S. Geological Survey, Department of Commerce and other public

and government reports, the following general data is available:

- a. Coal: Tribes own at least 33% of the western low sulphur coal.
- b. Uranium: In 1976, 25% of U.S. uranium production and 11% of world uranium production came from reservation lands.² Reserve estimates range from 13-36%.
- c. Geothermal: No figures available.
- d. Oil and Gas: 3% of U.S. oil reserves lie on Indian lands.
- e. Oil Shale: No figures available.
- f. Timber: Indian nations own a sizable portion of the timber in the United States, which may be a major replenishable energy resource as technology is developed.
- g. Solar: The ownership of solar resources cannot be assessed at this time. However, the number of tribes in the sunny southwest makes it clear that when and if technology is developed, for storage and transmission to other points, reservations could well be key collection points for solar energy.
- h. Tidal: There are tribes on both the east and west coast who could participate in tidal energy development. One eastern tribe, the Passamaquoddy, are currently negotiating an experimental tidal energy project.

These figures are based generally on known reserves and do not take into account the resources of Alaskan natives because certain issues involving which lands are to be under native control have not yet been settled.

Attached as Appendix A to the Summary is a map showing the location of tribes indicates those known to own non-replenishable energy resources.

Attached as Appendix B is a table showing Indian nations with energy resources under production, known and potential reserves.

The ownership of water, crucial to the development of virtually all non-replenishable resources, will no doubt be the most controversial issue in energy development. We will not attempt to define or quantify water rights in this paper as there are cases presently under litigation and many more which, no doubt, will come under litigation. By looking at a map showing the location of tribes on the major tributaries, it seems safe to say that Indian nations have legal claim to most of the water in the western United States.